

DETAILED ACTION

Notice to Applicant

1. This communication is in response to Amendments/Remarks filed 12/01/2004. Claims 1-29 are pending, claims 16-29 are cancelled, and claims 1-12 and 15 are amended.

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on June 7, 2002. It is noted, however, that applicant has not filed a certified copy of the Japanese application JP 2002-167137 as required by 35 U.S.C. 119(b).

Specification

2. The abstract of the disclosure is objected to because it exceeds the one paragraph limit. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claim 7, the claim states in line 2 of page 4, the limitation "said display unit, said input unit, and/or said data transfer". It is unclear whether the scope of the

claim includes all three of these elements or not. For the purposes of examination, the limitation will be interpreted as reading "said display unit, said input unit, *or* said data transfer".

6. Regarding claim 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Objections

7. Claim 1 is objected to because of the following informalities: The last line of claim 1 recites the word "unites" which appears to be a misspelling of the word "*units*". Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0109600 to Mault et al, hereinafter, Mault in view of US 6,039,989 to Bangs et al, hereinafter, Bangs.

As per claim 1, Mault teaches a portable terminal device which can be carried by a user comprising:

- an input unit which can input life data including a user's food intake contents (see: paragraph 49);
- a data storage unit which readably stores basic data including said life data (see: paragraph 36); and
- a display unit which displays the data (see: paragraph 20), and
- said input unit, when inputting said food intake contents, sets a pattern to suit the user's dietary habits (see: paragraphs 44 and 49).

Mault fails to teach said input unit classifies fixed *units* for each food to enable selection thereof. Bangs teaches food exchange lists that determine the calorie content (fixed units) per portion size consumed (see: column 8, lines 44-60). It would have been obvious to one of ordinary skill in the art to include in the food intake input unit of Mault, the fixed units for each food as taught by Bang because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Mault teaches the claimed device, further comprising a measuring unit which can measure a user's in-vivo substance to obtain biological data, and said basic data includes said biological data and said life data (see: paragraph 33).

As per claim 3, Mault teaches the claimed device, wherein said data storage unit is removably provided with respect to said portable terminal device (see: paragraph 36).

As per claim 4, Mault teaches the claimed device, further comprising a data transfer unit which transfers data between the outside and said portable terminal device (see: paragraph 31).

As per claim 5, Mault teaches the claimed device, wherein said biological data includes measurement time point data showing a measurement time point when said in-vivo substance is measured by said measuring unit (see: paragraph 7).

As per claim 6, Mault teaches the claimed device, wherein said measuring unit is an in-vivo substance measuring apparatus which is detachably and data transferably connected to the main body of said portable terminal device (see: paragraph 32).

As per claim 7, Mault teaches the claimed device, wherein said display unit, said input unit, and/or said data transfer use a display unit and an input unit or a communication unit of a portable telephone which is detachably and data transferably connected to the main body of said portable terminal device (see: paragraph 33).

As per claim 8, Bangs teaches the claimed device, wherein said input unit previously sets a food intake pattern according to special conditions and a pattern based on lifestyle habits of different meals, so as to suit the user's dietary habits (see: column 18, lines 25-37), and classifies said fixed units for each food into levels such as large quantity, medium quantity, and small quantity, to enable selection thereof (see: column 8, lines 44-60).

As per claim 9, Mault teaches the claimed device, wherein said basic data includes exercise data showing a user's exercise quantity (see: paragraph 28).

As per claim 10, Mault teaches the claimed device, further comprising an exercise quantity measuring apparatus for measuring the exercise quantity of a user carrying said device so as to obtain a part or all of the exercise data (see: paragraph 48).

As per claim 11, Mault teaches the claimed device, wherein a part or all of said specified exercise data is input from said input unit (see: paragraph 48).

As per claim 12, Mault teaches the claimed device, further comprising a clinical data creating section which creates clinical data based on said basic data (see: paragraph 49).

As per claim 13, Mault teaches the claimed device, wherein said clinical data creating section creates a table showing a causal relation with food intake, and graphs the data corresponding to clinical analysis (see: paragraph 15).

As per claim 14, Mault teaches the claimed device, wherein said clinical data creating section creates an acceptable intake on the day, based on a difference between a limited calorific intake per day and ingested calories on the day (see: paragraph 44).

As per claim 15, Mault teaches the claimed device, further comprising a source material creating section which creates source material having the accumulated basic data or clinical data statistically processed (see: paragraph 51).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANITA MOLINA whose telephone number is (571)270-

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3614. The examiner can normally be reached on Monday through Friday 8am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANITA MOLINA/
Examiner, Art Unit 3626
06/06/2008

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626